

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	ZHAO ET AL.)	
)	Examiner K. Ferguson
Appl. No.	09/785,960)	
)	Art Unit 2683
Confirm. No.	2853)	
)	Atty. Docket No. CS90038
Filed:	16 February 2001)	
Title:	"GPS Assistance Messages in Cellular Communications Networks And Methods Therefor"		

PRE-APPEAL BRIEF REVIEW REQUEST

Assistant Commissioner for Patents
Alexandria, Virginia 22313

Sir:

Request for Review, Claims Pending

The final Office Action mailed on 5 October 2006 has been considered carefully. Pre-appeal brief review of the claimed invention in view of the discussion below is respectfully requested. A notice of appeal has been filed concurrently. The claims have not been amended subsequent to the mailing of the subject final office action. Claims 1-10 and 25-28 stand allowed. Claims 16-18 are the subject of the instant appeal. Claims 1-10, 16-18 and 25-28 are pending.

Dicussion of Non-Statutory Subject Matter Rejection

Rejection Summary

Claims 16-18 stand rejected under 35 USC 101 as being drawn to non-statutory subject matter. The Examiner alleges that

... Claim 16 addresses a data structure stored on a computer readable medium for transmission on a wireless signal carrier.... A data structure modulate [sic] on a wireless carrier signal is considered functional descriptive material....

Discussion

Independent Claim 16 is reproduced below:

A satellite positioning system ephemeris data issue identifier stored on a computer-readable medium for transmission to a satellite positioning system enabled mobile station in a cellular communications network, the satellite positioning system ephemeris data issue identifier comprising:

- a first field with satellite identifier data; and
- a second field with an ephemeris sequence number

Contrary to the Examiner's assertion Claim 16 does not cover data modulated on a wireless carrier signal. Claim 16 was amended previously to recite an "... ephemeris data issue identifier stored on a computer-readable medium" Claims 16-18 is drawn to statutory subject matter recorded on a computer-readable medium, as provided in MPEP 2106 (IV)(B)(1).

Claim 16 also includes a field of use for the ephemeris data issue identifier, and particularly states that the ephemeris data issue identifier is "... for transmission to satellite positioning system enabled mobile station in a cellular communications network..." There is no known proscription in patent Law or jurisprudence against specifying a field of use in a claim covering a data structure stored on a computer readable medium.

Thus the subject matter of Claims 16-18 is statutory. Kindly withdraw the rejection under 35 U.S.C. 101.

Prayer For Relief

In view of the discussion above, the Claims of the present application are in condition for allowance. Kindly withdraw any rejections and objections and allow this application to issue as a United States Patent without further delay.

Respectfully submitted,

/ R K Bowler /

ROLAND K. BOWLER II 13 DEC. 2006
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